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(Original Signature of Member)

106TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. ALLEN (for himself, Mr. TURNER, Mr. WAXMAN, Mr. BERRY, Mr. STARK, Mr. SANDERS, Mrs. CAPPS, Mr. TIERNEY, Mr. LAMPSON, Ms. STABENOW, Mr. DAVIS of Illinois, Mr. KENNEDY of Rhode Island, Ms. DeLAURO, Mr. WEXLER, Mr. FROST, Mr. McGOVERN, Mr. CUMMINGS, Mr. THOMPSON of Mississippi, Mr. SANDLIN, Mr. FORD, Mr. BROWN of Ohio, Mr. WEYGAND, Ms. KILPATRICK, Mr. POMEROY, Mr. BORSKI, Mr. OLVER, Mrs. THURMAN, Mr. BLUMENAUER, Mr. SERRANO, Mr. BALDACCI, Mr. MATSUI, Mr. DELAHUNT, Ms. SLAUGHTER, Ms. HOOLEY of Oregon, Mrs. MCCARTHY of New York, Mr. CRAMER, Mr. HINCHEY, Mr. FRANK of Massachusetts, Ms. STABENOW, Mr. ANDREWS, Mr. MEEHAN, Mr. FILNER, Mr. KLECZKA, Mr. BARRETT of Wisconsin, Mr. STUPAK, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. LUTHER, Mr. PALLONE, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Mr. OBEY, Mr. MALONEY of Connecticut, Mr. KUCINICH, Mr. EVANS, Ms. MCKINNEY, Ms. SANCHEZ, Mr. BENTSEN, Ms. MILLENDER-McDONALD, Mr. BISHOP, Mr. HINCHEY, Mr. SHOWS, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on

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# A BILL

To provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Prescription Drug  
5       Fairness for Seniors Act of 1999”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds the following:

8               (1) Manufacturers of prescription drugs engage  
9       in price discrimination practices that compel many  
10      older Americans to pay substantially more for pre-  
11      scription drugs than the drug manufacturers’ most  
12      favored customers, such as health insurers, health  
13      maintenance organizations, and the Federal Govern-  
14      ment.

15              (2) On average, older Americans who buy their  
16      own prescription drugs pay twice as much for pre-  
17      scription drugs as the drug manufacturers’ most fa-  
18      vored customers. In some cases, older Americans pay  
19      over 15 times more for prescription drugs than the  
20      most favored customers.

21              (3) The discriminatory pricing by major drug  
22      manufacturers sustains their annual profits of

1       \$20,000,000,000, but causes financial hardship and  
2       impairs the health and well-being of millions of older  
3       Americans. More than one in eight older Americans  
4       are forced to choose between buying their food and  
5       buying their medicines.

6           (4) Most federally funded health care programs,  
7       including Medicaid, the Veterans Health Administra-  
8       tion, the Public Health Service, and the Indian  
9       Health Service, obtain prescription drugs for their  
10      beneficiaries at low prices. Medicare beneficiaries are  
11      denied this benefit and cannot obtain their prescrip-  
12      tion drugs at the favorable prices available to other  
13      federally funded health care programs.

14          (5) Implementation of the policy set forth in  
15      this Act is estimated to reduce prescription drug  
16      prices for Medicare beneficiaries by more than 40  
17      percent.

18          (6) In addition to substantially lowering the  
19      costs of prescription drugs for older Americans, im-  
20      plementation of the policy set forth in this Act will  
21      significantly improve the health and well-being of  
22      older Americans and lower the costs to the Federal  
23      taxpayer of the Medicare program.

24          (7) Older Americans who are terminally ill and  
25      receiving hospice care services represent some of the

1       most vulnerable individuals in our nation. Making  
2       prescription drugs available to Medicare beneficiaries  
3       under the care of Medicare-certified hospices will as-  
4       sist in extending the benefits of lower prescription  
5       drug prices to those most vulnerable and in need.

6       (b) PURPOSE.—The purpose of this Act is to protect  
7       Medicare beneficiaries from discriminatory pricing by drug  
8       manufacturers and to make prescription drugs available  
9       to Medicare beneficiaries at substantially reduced prices.

10   **SEC. 3. PARTICIPATING MANUFACTURERS.**

11       (a) IN GENERAL.—Each participating manufacturer  
12       of a covered outpatient drug shall make available for pur-  
13       chase by each pharmacy such covered outpatient drug in  
14       the amount described in subsection (b) at the price de-  
15       scribed in subsection (c).

16       (b) DESCRIPTION OF AMOUNT OF DRUGS.—The  
17       amount of a covered outpatient drug that a participating  
18       manufacturer shall make available for purchase by a phar-  
19       macy is an amount equal to the aggregate amount of the  
20       covered outpatient drug sold or distributed by the phar-  
21       macy to Medicare beneficiaries.

22       (c) DESCRIPTION OF PRICE.—The price at which a  
23       participating manufacturer shall make a covered out-  
24       patient drug available for purchase by a pharmacy is the  
25       price equal to the lower of the following:

1           (1) The lowest price paid for the covered out-  
2       patient drug by any agency or department of the  
3       United States.

4           (2) The manufacturer's best price for the cov-  
5       ered outpatient drug, as defined in section  
6       1927(c)(1)(C) of the Social Security Act (42 U.S.C.  
7       1396r-8(c)(1)(C)).

8       **SEC. 4. SPECIAL PROVISION WITH RESPECT TO HOSPICE**  
9                               **PROGRAMS.**

10       For purposes of determining the amount of a covered  
11       outpatient drug that a participating manufacturer shall  
12       make available for purchase by a pharmacy under section  
13       3, there shall be included in the calculation of such  
14       amount the amount of the covered outpatient drug sold  
15       or distributed by a pharmacy to a hospice program. In  
16       calculating such amount, only amounts of the covered out-  
17       patient drug furnished to a Medicare beneficiary enrolled  
18       in the hospice program shall be included.

19       **SEC. 5. ADMINISTRATION.**

20       The Secretary shall issue such regulations as may be  
21       necessary to implement this Act.

22       **SEC. 6. REPORTS TO CONGRESS REGARDING EFFECTIVE-**  
23                               **NESS OF ACT.**

24       (a) IN GENERAL.—Not later than 2 years after the  
25       date of the enactment of this Act, and annually thereafter,

1 the Secretary shall report to the Congress regarding the  
2 effectiveness of this Act in—

3 (1) protecting Medicare beneficiaries from dis-  
4 criminatory pricing by drug manufacturers, and

5 (2) making prescription drugs available to  
6 Medicare beneficiaries at substantially reduced  
7 prices.

8 (b) CONSULTATION.—In preparing such reports, the  
9 Secretary shall consult with public health experts, affected  
10 industries, organizations representing consumers and  
11 older Americans, and other interested persons.

12 (c) RECOMMENDATIONS.—The Secretary shall in-  
13 clude in such reports any recommendations they consider  
14 appropriate for changes in this Act to further reduce the  
15 cost of covered outpatient drugs to Medicare beneficiaries.

16 **SEC. 7. DEFINITIONS.**

17 In this Act:

18 (1) PARTICIPATING MANUFACTURER.—The  
19 term “participating manufacturer” means any man-  
20 ufacturer of drugs or biologicals that, on or after the  
21 date of the enactment of this Act, enters into a con-  
22 tract or agreement with the United States for the  
23 sale or distribution of covered outpatient drugs to  
24 the United States.

1           (2) COVERED OUTPATIENT DRUG.—The term  
2           “covered outpatient drug” has the meaning given  
3           that term in section 1927(k)(2) of the Social Secu-  
4           rity Act (42 U.S.C. 1396r–8(k)(2)).

5           (3) MEDICARE BENEFICIARY.—The term  
6           “Medicare beneficiary” means an individual entitled  
7           to benefits under part A of title XVIII of the Social  
8           Security Act or enrolled under part B of such title,  
9           or both.

10          (4) HOSPICE PROGRAM.—The term “hospice  
11          program” has the meaning given that term under  
12          section 1861(dd)(2) of the Social Security Act (42  
13          U.S.C. 1395x(dd)(2)).

14          (5) SECRETARY.—The term “Secretary” means  
15          the Secretary of Health and Human Services.

16 **SEC. 8. EFFECTIVE DATE.**

17          The Secretary shall implement this Act as expedi-  
18          tiously as practicable and in a manner consistent with the  
19          obligations of the United States.